

P-8-3 (Formerly P-8-50)

Approved: 01-05-2007

(1) Mutual concession cases closed by Appeals will not be reopened by Service except under certain circumstances:

A case closed by Appeals on the basis of concessions made by both Appeals and the taxpayer will not be reopened by actions initiated by the Service unless the disposition involved fraud, malfeasance, concealment or misrepresentation of material fact, an important mistake in mathematical calculation, or discovery that a return contains unreported income, unadjusted deductions, credits, gains, losses, etc. resulting from the taxpayer's participation in a listed transaction, and then only with the approval of the Appeals Director of Field Operations or Appeals Director of Technical Services.

(2) Requirements for reopening mutual concession cases at taxpayer's request:

Under certain unusual circumstances favorable to the taxpayer, such as retroactive legislation, a case closed by Appeals on the basis of concessions made by both Appeals and the taxpayer may be reopened upon written application from the taxpayer, and only with the approval of the Appeals Director of Field Operations or Appeals Director of Technical Services. The processing of an application for a tentative carryback adjustment or of a claim for refund or credit for an overassessment (for a year involved in the prior closing) attributed to a claimed deduction or credit for a carryback provided by law, and not included in a previous Appeals determination, shall not be considered a reopening requiring approval. A subsequent assessment of an excessive tentative allowance shall likewise not be considered such a reopening. The Chief of Appeals may authorize, in advance, the reopening of similar classes of cases where legislative enactments or compelling administrative reasons require such advance approval.

(3) Non-mutual concession cases will not be reopened by Service except under certain circumstances:

A case closed by Appeals on a basis not involving concessions made by both Appeals and the taxpayer will not be reopened by action initiated by the Service unless the prior disposition involved fraud, malfeasance, concealment or misrepresentation of material fact, an important mistake in mathematical calculation, or such other circumstances that indicates that failure to take such action would be a serious administrative omission, and then only with the approval of the Appeals Director of Field Operations or Appeals Director of Technical Services. The discovery that a return contains unreported income, unadjusted deductions, credits, gains, losses, etc. resulting from the taxpayer's participation in a listed transaction will constitute a serious administrative omission warranting reopening.

(4) Requirements for reopening non-mutual concession cases at taxpayer's request:

A case closed by Appeals on a basis not involving concessions made by both Appeals and the taxpayer may be reopened by the taxpayer by any appropriate means, such as by the filing of a timely claim for refund.

(5) Signed: Kevin Brown, Deputy Commissioner for Services and Enforcement